

**REMARKS**

As a preliminary matter, please note a change of address of the undersigned, Applicants' attorney of record, from Reed Smith LLP to Buchanan Ingersoll PC, 213 Market Street, 3rd Floor, Harrisburg, PA 17101-2121.

The Examiner has rejected claims 1 and 4-6 under 35 U.S.C. §102(b) as being anticipated by Byrne (U.S. Pat. No. 5,423,126), claims 7, 11-12 and 16-17 under 35 U.S.C. §102(b) as being anticipated by Franz (U.S. Pat. No. 5,878,556), claims 2-3 under 35 U.S.C. §103(a) as being obvious in view of Byrne, claims 10, 15 and 20 under 35 U.S.C. §103(a) as being obvious in view of Franz, and claims 8-9, 13-14 and 18-19 under 35 U.S.C. §103(a) as being obvious in view of the combination of Franz and Byrne. Applicants respectfully request reconsideration of those rejections in view of the foregoing amendments and the following remarks.

The Examiner correctly recognizes that "Franz fails to mention the filament length." In fact, all embodiments disclosed by Franz depict the filament extending no further than the outer periphery 44 of the shield 32. As such, Franz cannot serve as a §102 reference as to any of the amended claims, which all now include a limitation specifically calling for the length of the filament to extend outwardly beyond the outer edge of the guard/cover. Nor can Franz, standing alone, serve as a §103 reference, for the length of the filament relative to the guard is not a "routine matter of design to be determined by an artisan," as asserted by the Examiner. As discovered by Applicants, factory-stock, conventional gas-powered trimmers having no other alterations other than removal of the factory guard and installation of the guard of the present invention with the extension of the filament outside the guard's edge exhibited surprising results, including improved cutting at lower motor speeds, with noticeably less load on the engine. This was attributable in large part to the fact that the cutting action of the filament occurred to objects outside of the guard, reducing the interaction between objects and the mid-span portions of the filament.

Neither Franz nor Byrne teach or suggest in any way the transference of the cutting action away from the mid-span of the filament and towards the outer ends of the filament by extending the filament beyond the outer edge of the guard. Rather, Franz and Byrne actually contemplate the cutting action to take place entirely underneath the guard/cover, thereby placing a heavy burden directly on the mid-span and thereby increasing the negative consequences which Applicants' present invention is designed to avoid (including dulling or breakage of the rotating cutting blades requiring them to be frequently sharpened and/or replaced, or in the case when cutting filament is used instead of blades having to more frequently pay out additional filament, as well as a decrease in the velocity of the rotating cutting element which in turn reduces the effectiveness of the cutting action and requiring greater torque to force the cutting element through the object).

In addition to its length, the placement of the filament relative to the guard is not a "routine matter of design to be determined by an artisan," as asserted by the Examiner. Instead, the surprising results obtained by Applicants' present invention are also attributable in part to the filament's location about 1/8" to 3/8" below the guard's perimeter wall, a limitation which has now been made a part of each claim. This feature is neither disclosed nor suggested by either Franz or Byrne. In fact, Byrne actually *teaches away* from such spacing: "The distance between the flail 6 and the outboard surface 24 of the lip 21 has been greatly exaggerated in FIG. 2 for illustrative purposes. In actuality, the flail 6 *will bear against the outboard surface 24 of the lip 21* as it rotates such that the wobble of the flail 6 will be stabilized out to the periphery of the lip." See Byrne, col. 5, lines 54-60 (emphasis added). Thus, Byrne teaches that there be little if any spacing between the rotating filament and the underside of the cover/guard, whereas in Applicants' invention surprising results were achieved by spacing the filament in such a way that its plane of rotation would lie a measurable distance below the bottom surfaces of the guard.

Applicants respectfully submit the Examiner has failed to provide any evidence to

support the assertion that Byrne's "edge 35 of housing 33 would inherently function as a cutter." For example, Byrne's edge 35 could have a rounded or curved configuration (as opposed to square or rectangular), such that as the rotating filament passes by edge 35 it is merely displaced downwardly for a brief moment, traveling along the rounded bottom portion of edge 35 rather than being cut as it passes edge 35.

Lastly, the Examiner has indicated that "Franz may considered [sp] to be of plural pieces fixed together." Applicants note, however, that nowhere does Franz disclose "a plurality of guard portions, said plurality of guard portions being engageable with each other to form a perimeter wall and a cover" as claimed by Applicants. The Franz shield is clearly a one-piece component ("... the plastic disc shaped shield 32 of the trimmer 10 is depicted." See Franz, col. 4, lines 19-20). Moreover, Franz contemplates installation of its shield 32 in conjunction with a spool 54 specifically designed to interconnect with shield 32. Thus, Franz's shield 32 could not be easily installed on existing trimmers having a filament dispensing device or other cutting mechanism already attached thereto. Attempting to install the Franz shield on an existing trimmer would at a minimum require dismantling and removal of the factory-installed cutting mechanism, and even then may not provide an unobstructed pathway for the Franz cover to be slidably positioned on the shaft. The two-piece embodiment of Applicant's guard, however, can readily be positioned at an appropriate point along the shaft of an existing trimmer, at a suitable point above the factory-installed cutting mechanism simply by bringing the two halves together and securing them to each other.

### CONCLUSION


Applicants believe that the foregoing amendments and remarks have overcome or rendered moot all grounds for rejection or objection. There being no other rejections or objections, Applicants believe that the application is in condition for allowance. Applicants

therefore respectfully requests prompt action on the claims and allowance of the application. If the Examiner believes that additional issues need to be resolved before this application can be passed to issue, the undersigned invites the Examiner to contact him at the telephone number provided below.

Respectfully submitted,

BUCHANAN INGERSOLL PC

Dated: January 20, 2005

By   
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